public celebration that kicks off a 16-week 150th Anniversary Season that culminates in the Second Annual Art & Soul Festival over Labor Day Weekend:

Now, therefore, be it Resolved by the House of Representatives That Congress congratulates the City of Oakland on its 150th anniversary.

INTRODUCTION OF THE INSTALLMENT SALE PROTECTION ACT OF 2002

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 2, 2002

Mr. HERGER. Mr. Speaker, I am today introducing legislation that would restore effective use of the installment method of accounting to long-term service business owners who sell their business interests.

The installment method of accounting allows a seller to pay tax on the gain from a sale as the seller receives the sale proceeds. This tax treatment matches the time for paying the tax to when the seller has the cash with which to pay that tax.

As many Members are aware, in the last Congress, we acted on a recommendation from the Clinton Administration to repeal the installment method of accounting for accrual basis taxpayers. Only after such change became law did we discover that we had effectively eliminated the installment method of accounting for many small business owners and, as a result, made it much more difficult for those business owners to sell their businesses. These business owners were forced to pay the entire federal income tax due on the sale of their business in the year of sale, even though the proceeds of the sale would be received over several years. This up-front demand by the government forced business owners to borrow to pay the tax or to accept lower sale prices in order to induce buyers to pay enough up-front to cover the seller's tax. To its credit, the Congress admitted its mistake and retroactively restored the installment method to accrual basis taxpayers in the Installment Tax Correction Act of 2000 (P.L. 106–573), which was enacted on December 28, 2000.

While restoring the installment method for accrual method taxpayers in 2000 was the right thing to do, it did not go far enough in remedying the installment sale problems of business owners. Despite the clear policy decision by Congress in 2000 to permit sellers of businesses to use the installment method, some long-term business owners continue to be required to pay a significant portion of total taxes upon entering into an installment sale of their business, even though they have not yet received any significant part of the sale proceeds.

An exception to the installment sale method of accounting requires taxpayers to pay all tax attributable to depreciation recapture in the year of a sale. This depreciation recapture rule was adopted in 1984 in order to prevent taxpayers from engaging in ''churning'' transactions, sale/leasebacks, and other tax shelter transactions involving real estate and equipment. However, the recapture provision was expanded well beyond its original purpose in 1993 in connection with legislation relating to the treatment of intangibles. Unfortunately, Congress may not have fully appreciated the consequences to sellers of business interests.

In 1993, the Congress adopted rules to clarify the amortization of acquired intangibles (e.g., goodwill, going concern value). The 1993 change required intangibles to be written off over a 15-year period, but specified that any gain on the sale of the intangibles attributable to previous amortization deductions would be treated as depreciation recapture. As a result, tax on this gain must be paid immediately in the year of sale. Because these new rules generally applied to intangibles acquired after August, 1993, business owners are now only just beginning to feel the effects of the recapture rule. This rule is having a particularly adverse effect on service businesses, because intangibles such as goodwill and going concern value represent a major portion of the value of those businesses.

For a simplified example, take the case of a business owner who purchased an interest in an architectural firm for $ 100 in 1993, substantially all of the value of which was attributable to going concern value. The owner, who has actively participated in the business, retires in 2009 and sells the business for $200, payable in ten equal annual installments. This sale would produce $100 of capital gain (at an assumed tax rate of 20 percent) and $100 of ordinary income (at an assumed tax rate of 33 percent), generating a total tax of S53. Because of the intangibles recapture rule, the seller will have to pay $35, or 66 percent of the total tax, in the first year, despite having received only 10 percent of the sale proceeds in that year. This result is clearly inequitable and defeats the purpose of allowing business owners to use the installment method of reporting gain from the sale of the business. Moreover, the result is especially harsh in cases where a business owner is retiring and selling the business.

My bill would allow a long-term active participant in a service business to report intangibles recapture gain on the installment basis along with other gain from the sale. The legislation would not change the character of any gain. As such, intangibles recapture gain would continue to be ordinary income to reflect the fact that it previously gave rise to an ordinary deduction. The bill is limited to long-term participants because they are the individuals who would otherwise be likely to suffer the greatest hardship under the recapture rule and who are most likely to be relying on installment sale payments to supplement their retirement income.

Specifically, my bill would allow an individual who has been an active participant for five of the prior seven years in a business in which capital is not a material incomeproducing factor (i.e., a service business) to report on the installment basis any intangibles recapture income resulting from the disposition of an interest in the business.

Because this proposal does not apply to depreciation recapture from tangible property, the proposal does not conflict with the original goals of Congress in adopting the depreciation recapture exception to the installment sale rules. Specifically, this is not a change that would permit tax sheltering through any sort of ''churning'' transactions.

While this proposal does not address all of the potential cases in which the installment sale method is unavailable upon the sale of a business, it does go a long way towards addressing one of the most egregious situations. I urge my colleagues to support this worthy legislation.

SUPPORTING NATIONAL BETTER HEARING AND SPEECH MONTH

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 30, 2002

Ms. MCCOLLUM. Mr. Speaker, I rise today in support of H. Con. Res. 358, Supporting the Goals of National Better Hearing and Speech Month.

Hearing loss is the most frequently occurring birth defect in the United States, affecting 3 of every 1,000 newborns. Newborn hearing loss is 20 times more prevalent than PKU, a condition for which all newborns are currently screened. Often, hearing loss is not detected until a child is 2 to 3 years old.

Fortunately, there is a quick procedure that can be used to test infant hearing before newborns leave the hospital. Starting in 2000, Congress made grants available to the states through Health Resources and Services Administration and Centers for Disease Control to help reach the goal of testing every infant for hearing loss. States use the federal grants to train audiologists to use screening equipment and educate parents on the need for hearing screening and follow-up care.

The federal dollars are important to the success of the newborn screenings. Nationally, 67 percent of babies are presently screened, up from 20 percent in 1999. In my home state of Minnesota, only 8 percent of hospitals screened newborns for hearing loss before the state received the federal grant money. Today, 85 percent of Minnesota hospitals perform the screenings.

We know that infants identified with hearing loss before 6 months have a significant academic and social advantage over those who are not in a program by 6 months. The average savings in special education costs per child if hearing loss is detected early enough is $400,000. The UNHS program pays for itself in special education savings many times over.

Sadly, the $13 million in HRSA grants were cut from the President's proposed FY 2003 budget. These cuts may undo the progress we have made in ensuring that every infant is screened for hearing loss before leaving the hospital.

I want to thank Congressman RYAN for bringing attention to such an important issue. Under this resolution recognizing Better Hearing and Speech Month, Congress commends the 41 States that have implemented routine hearing screenings for every newborn before they leave the hospital.

We still have work to do, however. I recently met with constituents who had to battle doctors to get hearing screening for their newborn, even though their older son suffered from hearing loss. As members of Congress we can do more to help parents. No parent should have to fight for basic infant health care.

Hearing screening in 41 states is not enough. We must continue this success in